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SEP 22 2008

In re Application of	:
Fredrick W. Trafton et al	:
Application No. 10/646,854	: DECISION ON PETITION
Filed: August 26, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. TI-35749	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 30, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on August 26, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/438,164, which was filed on January 6, 2003, and for which priority is claimed.

The Application Data Sheet submitted with the petition on November 30, 2007 does not list the Application Number; i.e., 10/646,854. Petitioner must submit the Application Number for the prior Application Status.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), are required.


Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

  
David Bucci  
Petitions Examiner  
Office of Petitions